SUPREME COURT OF THE UNITED STATES.

No. ~~110~~ 22.

GABRIEL RICHARD ET AL., PLAINTIFFS IN ERROR,

VERSUS

FRANCIS LABADIE.

IN ERROR TO THE SUPREME COURT FOR THE TERRITORY OF MICHIGAN.

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The record and proceedings of the plaint, whereof mention is within made, follows in these words, to wit:

FRANCIS LABADIE, *vs.* GABRIEL RICHARD, LOUIS BEAUFAIT, and ANTOINE DEQUINDRE, impleaded with CHARLES RIVARD.

Pleas at the city of Detroit, before the judges of the supreme court of the Territory of Michigan, in the term of May, in the year of our Lord one thousand eight hundred and thirty-one.

TERRITORY OF MICHIGAN, *to wit:*

Francis Labadie, plaintiff, puts in his place Charles Larned, Joseph W. Torrey, and Benjamin F. H. Withereil, as his attorneys, against Gabriel Richard, Louis Beaufait, and Antoine Dequindre, impleaded with Charles Rivard, in a plea of debt on bond.

TERRITORY OF MICHIGAN, *to wit:*

The said Gabriel Richard, Louis Beaufait, and Antoine Dequindre, impleaded with Charles Rivard, put in their place Andrew G. Whitney, as their

attorney, at the suit of the said Francis Labadie in the plea aforesaid.

TERRITORY OF MICHIGAN, *to wit:*

According to the form of the statute in such case made and provided, a certain writ of summons issued out of, and under the seal of the supreme court aforesaid, against Gabriel Richard, Louis Beaufait, Charles Rivard, and Antoine Dequindre, defendants, at the suit of Francis Labadie, plaintiff, in a plea of debt on bond: which said writ of summons is in the words following, that is to say:

Writ. TERRITORY OF MICHIGAN, *Supreme Court.—The United States of America to the Sheriff of the county of Wayne, greeting:*

We command you that you summon Gabriel Richard, Louis Beaufait, Charles Rivard, and Antoine Dequindre, if they be found in your bailiwick, so that they be and appear before the judges of the supreme court of the Territory of Michigan, at the council-house in the city of Detroit, on the third Monday of September, instant, then and there to answer Francis Labadie in a plea of debt, to his damage three thousand dollars. Hereof fail not; and of this writ, and your doings on it, make due return according to law.

Witness, the honorable James Witherell, presiding judge of the said court at Detroit, this fifth day of September, in the year of our Lord one thousand eight hundred and twenty-five, and of the independence of the United States of America the fiftieth year.

JOHN McPHERSON, jr., [L. S.]
Dept. Clerk, S. C.

Endorsement of writ.

This action is brought to recover the sum of two thousand three hundred and three dollars and twenty-five cents, it being the penalty of a bond given by the defendants to the plaintiff, conditioned that the said Gabriel Richard should remain a true and faithful prisoner, and should not, at any time, in any wise escape, or go without the limits of the prison in and for the county of Wayne aforesaid, as the same then were fixed and established by statute, until discharged by due course of law; which condition has been broken.

To which said writ of summons, the sheriff, to wit, Austin E. Wing, then sheriff of the county of Wayne aforesaid, to whom the same was directed at the time and place therein commanded, in the supreme court aforesaid, before the judges thereof, then there made return in the words and figures following, that is to

Return. say: "I have served the within summons upon Gabriel Richard, by delivering to him, at his dwelling-house, on the 7th September, instant, a true and attested copy of the within: also, upon Louis Beaufait and Charles Rivard, by delivering to each of them at their dwelling-houses, on the 9th September instant, a true and attested copy of the within; and have served the within upon Antoine Dequindre, by leaving with his son at his dwelling-house a true and attested copy on the 7th instant.

Service on 1st defendant, - -	$1 00
do 3d do additional, -	1 50
Mileage, - - - - -	1 00
4 certified copies, 400 words each, -	1 00
	$4 50

A. E. WING,
Sheriff of Wayne county, Mich. Ter'y."

DETROIT, *Sept.* 17, 1832.

And afterwards, to wit, on the sixth day of March, in the year of our Lord one thousand eight hundred and twenty-six, as of the term of September, in the year of our Lord one thousand eight hundred and twenty-five, at the court-house, in the city of Detroit, before the judges of the said supreme court, then there came the said Francis Labadie, by his attorneys aforesaid, and brought into the said supreme court before the aforesaid judges thereof, then there, his certain bill against the said Gabriel Richard, Louis Beaufait, Charles Rivard, and Antoine Dequindre; which is in the words and figures following, that is to say:

Declaration.

SUPREME COURT, TERRITORY OF MICHIGAN, }
September term, A. D. 1825. }

WAYNE COUNTY, *to wit:*

Francis Labadie complains of Gabriel Richard, Louis Beaufait, Charles Rivard, and Antoine Dequindre, residents in the county of Wayne, in the Territory of Michigan, summoned by the sheriff, &c., in a plea that they render to the said Francis Labadie the sum of two thousand three hundred and three dollars and twenty-five cents, lawful money of the United States of America, which they owe to, and unjustly detain from him. For that, whereas the said Gabriel Richard, Louis Beaufait, Charles Rivard, and Antoine Dequindre, heretofore, to wit, on the twelfth day of October, in the year of our Lord one thousand eight hundred and twenty-four, at Detroit, in said county, in the Territory aforesaid, by their certain writing obligatory, sealed with their seals, and now shown to the court here, the date whereof is the day and year aforesaid, acknowledged themselves to be held and firmly bound, jointly and severally unto the said Francis Labadie, in the said sum of two thousand three hundred and three dollars and twenty-five cents, above demanded to be paid to the said Francis Labadie, when they, the said Gabriel Richard, Louis Beaufait, Charles Rivard, and Antoine Dequindre, or either of them, should be thereunto afterwards requested; which said writing obligatory was and is subject to a certain condition thereunder written, whereby, after reciting to the effect following, to wit, that the condition of said writing obligatory was such, that if the above bounden Gabriel Richard, who was then in the custody of Austin E. Wing, then sheriff of the county of Wayne aforesaid, by virtue of a writ of capias ad satisfaciendum to the sheriff of the county of Wayne aforesaid directed, issued out of the supreme court of the Territory aforesaid, at the suit of the said Francis Labadie, on the twenty-first day of

September, in the year one thousand eight hundred and twenty-four, to satisfy the said Francis Labadie the sum of eleven hundred and sixteen dollars damages, and thirty-five dollars and sixty-two and a half cents costs, as was therein mentioned.

Now, if the said Gabriel Richard should remain a true and faithful prisoner, and should not at any time or in anywise escape, or go without the limits of the prison in and for the county of Wayne aforesaid, as the same were then fixed and established by statute, until discharged by due course of law, the said writing obligatory was to be void and null, otherwise to remain in full force and virtue. Nevertheless, the said Francis Labadie in fact saith, that, after making the said writing obligatory, to wit, on the first day of March, in the year of our Lord one thousand eight hundred and twenty-five, at Detroit, in the county of Wayne aforesaid, the said Gabriel Richard did not remain a true and faithful prisoner of the prison in and for the county of Wayne aforesaid, as the said prison and the limits thereof were fixed and established by statute, nor without making in anywise any escape therefrom, but then and there did go out of, and beyond said prison, and the bounds thereof, and then and there from said prison established and fixed as aforesaid, did make an escape, contrary to the form and effect of the said writing obligatory, and the said condition thereof; whereby an action hath accrued to the said Francis Labadie, to demand, and have of and from the said Gabriel Richard, Louis Beaufait, Charles Rivard, and Antoine Dequindre, or either of them, the said sum of two thousand three hundred and three dollars and twenty-five cents, above demanded; yet the said Gabriel Richard, Louis Beaufait, Charles Rivard, and Antoine Dequindre, nor either of them, though often requested so to do, have not as yet paid the said sum, nor any part of said sum of two thousand three hundred and three dollars and twenty-five cents; but to pay said sum or any part thereof, have hitherto wholly neglected and refused, and still neglect and refuse so to do, to wit, at Detroit, in the county of Wayne, and Territory aforesaid; to the damage of the said Francis Labadie of three thousand dollars, as laid in his writ, tested the fifth day of September, one thousand eight hundred and twenty-five; wherefore he brings suit, and puts in his stead and place as his attorneys, Larned and Torrey, and Benj. F. H. Witherell.

And the said Gabriel Richard, Louis Beaufait, and Antoine Dequindre, defendants in this case by A. G. Whitney, their attorney,
Plea. come and defend the wrong and injury when, &c., and crave oyer of the said supposed writing obligatory in the declaration mentioned, and it is read to them in these words, to wit:

"Know all men by these presents, that we, Gabriel Richard, Louis Beaufait, Charles Rivard, and Antoine Dequindre, residents in the county of Wayne, in the Territory of Michigan, are held and firmly bound unto Francis Labadie, of the county of Macomb, in said Territory, in the sum of two thousand three hundred and three dollars and twenty-five cents, lawful money of the United States of America, to be paid to the said Francis Labadie, his executors, administrators, and assigns, and for the same, payment to be well and truly made, we bind ourselves, jointly and severally,

and our and each our heirs, executors, and administrators, firmly by these presents. Sealed with our seals, and dated at the city of Detroit, on the twelfth day of October, in the year of our Lord one thousand eight hundred and twenty-four." They also crave oyer of the condition of the said bond, and it is read to them in these words, to wit: "The condition of the above obligation is such, that if the above bounden Gabriel Richard, who is now in the custody of Austin E. Wing, sheriff of the said county of Wayne, by virtue of a writ of capias ad satisfaciendum to the said sheriff of the county of Wayne aforesaid directed, issued out of the supreme court of the Territory aforesaid, at the suit of the said Francis Labadie, on the twenty-first day of September last, 1824, to satisfy the said Francis Labadie the sum of eleven hundred and sixteen dollars damages, and thirty-five dollars and sixty-two and half cents, costs, as is therein mentioned. Now, if the said Gabriel Richard shall remain a true and faithful prisoner, and shall not at any time or in anywise escape, or go without the limits of the prison in and for the county of Wayne aforesaid, as the same now are fixed and established by statute, until discharged by due course of law, then his obligation is to be null and void, otherwise to remain in full force and virtue.

In witness whereof, we have hereunto set our hands, and affixed our seals, the day and year first above written.

GABRIEL RICHARD, [L. S.]
LOUIS BEAUFAIT, [L. S.]
CHARLES RIVARD, [L. S.]
ANTOINE DEQUINDRE, [L. S.]

Signed, sealed, and delivered, in the presence of
AUGUSTIN BARTHLETTE,
G. J. LEET."

"Louis Beaufait, Charles Rivard, and Antoine Dequindre, are good for the amount of the within bond. Detroit, 12th October, 1824.

JAMES ABBOTT, *Justice of the Peace.*
THO'S ROWLAND, *Justice of the Peace.*"

Which being read and heard, the said defendants say that the said supposed writing obligatory is not their deed; and of this they put themselves upon the country, &c.

And for a further plea in this behalf, the said defendants, by leave of the court, &c., say that the said Francis Labadie, the plaintiff in this cause, ought not to have or maintain his action thereof against them, because they say that they do not owe the said sums of money in the said declaration mentioned, or any part thereof, in manner and form as the said plaintiff hath above thereof complained against them; of this they put themselves upon the country, &c.

And for a further plea in this behalf, the said defendants, by leave of the court, &c., say that the said plaintiff ought not to have or maintain his said action thereof against them, because they say that the said Gabriel Richard did, at all times, and after the making of the said writing obligatory, and the condition thereof,

well and truly observe, perform, and keep, all and singular the articles, clauses, conditions, and agreements, in the said condition of the said writing obligatory specified, comprised, and mentioned, in all things therein contained on his part and behalf to be performed, fulfilled, and kept, according to the tenor and effect, true intent and meaning of the said condition of the said writing obligatory, and this they are ready to verify. Wherefore they pray judgment if the said plaintiff ought to have or maintain his said action thereof against them, &c.

And, for a further plea in this behalf, the said defendants, by leave of the court, &c , say that the said plaintiff ought not to have or maintain his action thereof against them, because they say that the said Gabriel Richard did, at all times after the making of the said writing obligatory, and the conditions thereof, remain a true and faithful prisoner of the prison in and for the county of Wayne aforesaid, as the limits thereof were fixed and established, and did not in anywise make any escape therefrom, nor go out of, and beyond the bounds thereof, contrary to the force and effect of the said writing obligatory, and the said condition thereof; and this they are ready to verify. Wherefore they pray judgment if the said plaintiff ought to have or maintain his said action thereof against them.

And for a further plea in this behalf, the said defendants, by leave of the court, &c., say that the said plaintiff ought not to have or maintain his action thereof against them, because they say, that, after the said first day of March, in the year eighteen hundred and twenty-five, the day of the said supposed escape in the said declaration mentioned, and before the commencement of this action by the said plaintiff against defendants, to wit, on the second day of April, in the year A. D. eighteen hundred and twenty-five, the said Gabriel Richard voluntarily returned within the limits of the said prison in and for the said county of Wayne aforesaid, and has ever since that time remained and continued in all respects a true and faithful prisoner within the limits aforesaid, according to the form and effect, true intent and meaning, of said writing obligatory, and the condition thereof; and this they are ready to verify; wherefore they pray judgment if the said plaintiff ought to have or maintain his action thereof against them, &c.

And for a further plea in this behalf, the said defendants, by leave of the court, &c., say, that the said plaintiff ought not to have or maintain his said action thereof against them, because they say, that at the time of the making of the said writing obligatory, to wit, on the twelfth day of October, A. D. eighteen hundred and twenty-four, there was not any statute of this Territory that fixed and established the limits of the prison in and for the county of Wayne; that the sheriff of the said county took the said bond, or writing obligatory, in the said declaration mentioned, of the said defendants, under color of his office as sheriff of said county, and not otherwise; and the said defendants in fact say, that the said writing obligatory so brought into court, is void in law; and this they are ready to verify. Wherefore they pray judgment of the court if the said plaintiff ought to have or maintain his said action thereof against them, &c.

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And, for a further plea in this behalf, the said defendants, by leave of the court, &c., say, that the said plaintiff ought not to have or maintain his action thereof against them, because they say that the said Gabriel Richard, previous to the issuing of the execution, and previous to the time of making the said writing obligatory in the said declaration mentioned, the said Gabriel Richard was elected by the good people of this Territory to serve them as their delegate in the Congress of the United States of America; and that the said Gabriel Richard, in the performance of his duty as such delegate to the good people of the United States, and of this Territory, was, on the said first day of March, A. D. eighteen hundred and twenty-five, the day of the alleged escape of the said Gabriel Richard from the limits of the prison of said county as aforesaid, in attendance as such delegate as aforesaid in the Congress of the United States of America, then holding a session, and sitting as such Congress, at the Capitol, in the City of Washington, as well he might be, for the causes aforesaid; and this they are ready to verify. Wherefore they pray judgment if the said plaintiff ought to have or maintain his aforesaid action thereof against them, &c.

And for a further plea in this behalf, the said defendants, by leave of the court, &c., say, that the said plaintiff ought not to have or maintain his action thereof against them, because they say, that, long before the time of the rendition of the judgment, and of the issuing of the execution, and of the arrest of the said Gabriel Richard thereon, as in said declaration mentioned, and before the making of the said supposed writing obligatory as set forth in said declaration, to wit, in the month of September, A. D. eighteen hundred and twenty-three, the said Gabriel Richard was elected in pursuance of the laws of the United States, and of this Territory, by the good people of this Territory, to serve them as their delegate for the term of two years, from the time of his said election, in the Congress of the United States; and at the session of the said Congress, commenced on the 6th day of December, A. D. eighteen hundred and twenty-three, in compliance with his duty to the good people of the said United States, and of this Territory, did take his seat, and attend in Congress as such delegate, during the said session of the said Congress; all which was well known to the said plaintiff in said declaration named; and further, that, on the twenty-first day of September, the said Gabriel Richard was arrested by the said sheriff of the said county of Wayne on an execution as set forth in said declaration, and committed to the prison of the county of Wayne, in close custody, where the said Gabriel Richard remained a prisoner in close custody in the said jail until the twelfth day of October following, in the same year, when the said defendants, for the purpose of releasing the said Gabriel Richard from close custody within the walls of said prison, that he might thereby be in a condition to perform the duty he, as such delegate, owed to the good people of the said United States, and of this Territory, by taking his seat in, and attending as such delegate at, the session of the Congress of the United States to be held in the then following month of December of said year, eighteen hundred and twenty-four, did make

the said supposed writing obligatory, and deliver the same to the said Austin E Wing, sheriff and jailor of the prison in and for the said county of Wayne; whereby, for the cause aforesaid, the said Gabriel Richard was released by the said sheriff and jailor as aforesaid from close custody as a prisoner of the said jail. And the said defendants further say, that the session of the Congress of the United States, in the year A. D. eighteen hundred and twenty-four, commenced its session on the fourth day of December; and that the said Gabriel Richard, in compliance with his duty to the good people of the United States, and of this Territory, as such delegate as aforesaid, did, within a reasonable time before the commencement of the said last mentioned session of the said Congress, to wit, on the fifth day of November, A. D. eighteen hundred and twenty-four, set out from the city of Detroit, and travel with all convenient diligence to the city of Washington, to take his seat in, and attend the said session of Congress as such delegate, for the good people of this Territory; and these defendants aver that the time, to wit, from the said fifth day of November aforesaid, to the said day of the commencement of the said session of Congress, is a reasonable time, and no more, for the said Gabriel Richard, as such delegate as aforesaid, to travel from the city of Detroit to the city of Washington. And the said defendants further in fact say, that, on the said first day of March, A. D. eighteen hundred and twenty-five, the day mentioned in said declaration as the day on which the said supposed escape from the said supposed limits of the said county of Wayne, was made by the said Gabriel Richard, and on which, it is alleged in said declaration, that the said Gabriel Richard did not remain a true and faithful prisoner as aforesaid, the said Gabriel Richard was in attendance in the said Congress of the United States, in pursuance of his duty to the good people of the said United States, and of this Territory, as well he might be, for the causes aforesaid. And these defendants further in fact say, that the said last mentioned session of Congress closed on the third day of March, of the year eighteen hundred and twenty-five, and that the said Gabriel Richard, within a reasonable time thereafter, to wit, on the seventh day of March, A. D. eighteen hundred and twenty-five, set out from the city of Washington, and travelled with all convenient diligence as such delegate, to the said county of Wayne, and arrived and returned voluntarily within the aforesaid limits of the prison in and for the county of Wayne, on the second day of April, A. D. eighteen hundred and twenty-five, and before the time of the suing out of the summons, and the time of the commencement of this action by the said plaintiff against these defendants. And these defendants aver that the time, to wit, from the said seventh day of March, A. D. eighteen hundred and twenty-five, to the second day of April of the same year, the day on which the said Gabriel Richard voluntarily returned within the said limits of the said prison in and for the county of Wayne, is a reasonable time, and no more, for the said Gabriel Richard, as such delegate as aforesaid, to travel from the city of Washington, and return within the said limits of the said prison in and for the county of Wayne. And these defendants further in fact say, that

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the said Gabriel Richard, from the said second day of April, A. D. eighteen hundred and twenty-five, the day on which he voluntarily returned within the said limits aforesaid, has ever since continued and remained a true and faithful prisoner within the said limits, and has not at any time since, or in anywise escaped, or gone out of the limits of the prison in and for said county of Wayne aforesaid, as the same were then fixed and established by statute, according to the tenor and effect, true intent and meaning, of the said condition of the said writing obligatory; and this they are ready to verify. Wherefore they pray judgment if the said plaintiff ought to have or maintain his action thereof against them, &c.

Suggestion of Charles Rivard's death.

And the said defendants, by their attorney aforesaid, now come into court here and make suggestion to the court here of the death of Francis Rivard, (meaning Charles) one of the joint defendants to the action; and give the court to be informed that the death of the said Francis (meaning Charles) happened before the rule day for filing and pleading in this case by either plaintiff or defendants, and before the return of process in this case.

Replication.

And the said Francis Labadie, plaintiff, as to the pleas of the said Gabriel Richard, Louis Beaufait, Charles Rivard, whose death, before return of process, and before rule day, has been suggested of record, and Antoine Dequindre, defendants, by them firstly and secondly above pleaded; and whereof they have put themselves upon the country, doth the like.

And the said plaintiff, as to the said pleas of the said defendants, by them thirdly and fourthly above pleaded, saith that he, the said plaintiff, by reason of any thing by them in those two pleas alleged, ought not to be barred from having and maintaining his said action thereof against them, because he saith, that, contrary to the said condition of the said writing obligatory, and to the force and effect thereof, the said Gabriel Richard, after the making of the said writing obligatory, and the said condition thereof by the said defendants to the said plaintiff, to wit, on the first day of March, A D. one thousand eight hundred and twenty-five, did wilfully and voluntarily escape from the prison in and for the county of Wayne aforesaid, as the limits thereof were fixed and established, and did go out of, and beyond the bounds thereof; and this he is ready to verify. Wherefore he prays judgment, and his damages, by reason, &c , of said condition of said writing obligatory, to be adjudged to him, and for his costs.

And the said plaintiff, as to the said plea of the said defendants, by them fifthly above pleaded, saith that he, the said plaintiff, by reason of any thing in that plea alleged by them, ought not to be barred from having and maintaining his said action thereof against them, because, protesting that the said plea, and the matter therein contained, are not sufficient in law to bar the said plaintiff from having and maintaining his said action thereof against them, for replication in this behalf, the said plaintiff saith that the said writing obligatory, and the said condition in his said declaration mentioned, was made and sealed by the said defendants to him the said plaintiff, and to no other person; and that, after the making of the said writing obligatory, and the condition thereof by the said de-

fendants to the said plaintiff, to wit, on the first day of March, A. D. one thousand eight hundred and twenty-five, did wilfully and voluntarily escape from, and go out of and beyond the prison in and for the county of Wayne aforesaid, as the limits thereof were fixed and established; without this, that the said Gabriel Richard, after the said first day of March, and before the commencement of this suit, to wit, on the second day of April, A. D. one thousand eight hundred and twenty-five, did voluntarily return within the limit o the said prison in and for said county of Wayne aforesaid, and has ever since remained and continued in all respects a true and faithful prisoner within the limits aforesaid, according to the true intent and meaning, force and effect, of said writing obligatory, and the said condition in manner and form as the said defendants in said plea have alleged; and this he is ready to verify. Wherefore, &c., his debt aforesaid, together with his damages by reason, &c., may be adjudged to him, and for his costs.

And the said plaintiff, as to the said plea of the said defendants, by them sixthly above pleaded, saith that he, the said plaintiff, by reason of any thing by the said defendants in that plea alleged, ought not to be barred from having and maintaining his said action thereof against them, because, protesting that the said plea, and the matter therein contained, are not sufficient in law to bar the said plaintiff from having and maintaining his said action against them, for replication in this behalf, saith, that the said writing obligatory, in his said declaration mentioned, was made, and sealed, and delivered, by the said defendants to the said plaintiff, in conformity to, and in pursuance of the act entitled "An act regulating prison bounds," made, adopted, and published at the city of Detroit, the first day of December, A D. one thousand eight hundred and thirty-one; and in conformity to, and in pursuance of the act entitled "An act to extend the prison limits," made, adopted, and published at the city of Detroit, the eighteenth day of November, A. D. one thousand eight hundred and twenty-one; both of which said acts were the public statutes of the Territory of Michigan, and at the time of making the said writing obligatory in said declaration mentioned, to wit, on the twelfth day of October, A. D. one thousand eight hundred and twenty-four, were in full force, and not repealed; without this, there was not, at the time of making said writing obligatory, to wit, on the twelfth day of October, A. D one thousand eight hundred and twenty-four, any statute of said Territory that fixed and established the limits of the prison in and for the county of Wayne aforesaid; and that the sheriff took the said bond or writing obligatory in the said declaration mentioned of the said defendants, under color of his said office as sheriff of said county of Wayne, and not otherwise, in manner and form, &c.; and this he is ready to verify. Wherefore, &c., and his debt aforesaid, and his damages by reason, &c., to be adjudged to him, &c.

And the said plaintiff, as to the said plea of the said defendants, by them seventhly above pleaded, saith, that he, the said plaintiff, by reason of any thing by them in that plea alleged, ought not to be barred from having and maintaining his said action thereof against them, because, protesting that the said plea, and the mat-

ter therein contained, are not sufficient in law to bar the said plaintiff from having and maintaining his said action against them for replication in this behalf, the said plaintiff saith, that, after the making of the said writing obligatory, and the condition thereof by the said defendants to the said plaintiff in the said plaintiff's declaration mentioned, and before the said session of the said Congress, to wit, on the fifth day of November, A. D. one thousand eight hundred and twenty-four, the said Gabriel Richard, contrary to the condition of the said writing obligatory, did voluntarily and wilfully escape from, and go out of said prison in and for the county of Wayne aforesaid, and the limits thereof, as the same were fixed and established; and this he is ready to verify. Wherefore, &c., judgment, and his damages by reason, &c., to be adjudged to him, &c.

And the said plaintiff, as to the said plea of the said defendants, by them eighthly above pleaded, says, that he, the said plaintiff, by reason of any thing by the said defendants in that plea alleged, ought to be barred from having and maintaining his said action thereof against them; because, protesting that the said plea, and the matter therein contained, are insufficient in law to bar the said plaintiff from having and maintaining his said action against them, the said plaintiff, for replication in this behalf, saith, that the said writing obligatory, and the said condition in the said plaintiff's declaration mentioned, was given to the plaintiff by the said defendants, in conformity to, and in pursuance of, an act entitled "An act regulating prison bounds," made, adopted, and published at the city of Detroit, on the first day of December, one thousand eight hundred and twenty-one; and, also, of an act entitled "An act to extend the prison limits," made, adopted, and published at the city of Detroit, on the eighteenth day of November, one thousand eight hundred and twenty-two; both of which said acts, at the time of making the said writing obligatory, and the said condition by the said defendants to the said plaintiff, to wit, on the twelfth day of October, A. D. one thousand eight hundred and twenty-four, were the public statutes of the Territory of Michigan, in force; and, after the making of the said writing obligatory, and said condition in the plaintiff's declaration mentioned, by the said defendants to the said plaintiff, in conformity to, and in pursuance of said acts, to wit, on the fifth day of November, A. D. one thousand eight hundred and twenty-four, the said Gabriel Richard, contrary to the said condition of the said writing obligatory, and the true intent and meaning, force and effect of said condition of said writing obligatory, made as aforesaid, did wilfully, knowingly, and voluntarily escape from said prison in and for the county of Wayne aforesaid, and did pass over and beyond the limits of said prison, as the same were fixed and established by the statutes aforesaid; without this, that the said writing obligatory was made and delivered to said Austin E. Wing, sheriff and jailor of the prison in and for the county of Wayne aforesaid, for the purpose of releasing the said Gabriel Richard from close custody within the walls of said prison, that he might thereby be in a condition to perform the duty the said Gabriel Richard, as delegate of the good people of the Territory of Michigan, owed

to the good people of the United States, and of said Territory, by taking his seat in, and attending as delegate at, the session of Congress of the United States, to be held in the following month of December of the said year, one thousand eight hundred and twenty-four; and that the said Gabriel Richard, in compliance with his duty as delegate as aforesaid, did, within a reasonable time before the session of Congress of the year one thousand eight hundred and twenty-four, go with due diligence to said Congress, from the city of Detroit, to the city of Washington; and, after the close of said session, within a reasonable time, did voluntarily return within said limits of the prison in and for the county aforesaid, and has ever since remained a true and faithful prisoner, in manner and form, as the said defendants have above in said plea alleged; and this the said plaintiff is ready to verify. Wherefore, &c., and his debt aforesaid, and his damages by reason, &c., may be adjudged to him, and for his costs.

Cont'ce. And afterwards, to wit, in the term of December, in the year of our Lord one thousand eight hundred and twenty-seven, before the judges of the supreme court of the Territory of Michigan aforesaid, at the court-house in the city of Detroit, then there came the parties aforesaid, by their respective attorneys aforesaid; and thereupon, the process was further continued between the parties aforesaid, until the term of May, in the year of our Lord one thousand eight hundred and twenty-eight.

Cont'ce. And afterwards, to wit, in the term of May, in the year of our Lord one thousand eight hundred and twenty eight, before the judges of the said supreme court, at the court-house in the city of Detroit, then there came, as well the said Francis Labadie, by his attorneys aforesaid, as the said Gabriel Richard, Louis Beaufait, and Antoine Dequindre, defendants aforesaid, by Elan Farnsworth, (who the said defendants put in their place as their attorney, in the room of Andrew G. Whitney, who has died since the last continuance of this case;) and thereupon, the process was further continued between the parties aforesaid, until the term of December, in the year of our Lord one thousand eight hundred and twenty-eight.

Cont'ce. And afterwards, to wit, in the term of December, in the year of our Lord one thousand eight hundred and twenty-eight, before the judges of the said supreme court, at the court-house in the city of Detroit, then there came the parties aforesaid, by their respective attorneys aforesaid; and thereupon, the process was further continued between the parties aforesaid, until the term of May, in the year of our Lord one thousand eight hundred and twenty-nine.

Cont'ce. And afterwards, to wit, in the term of May, in the year of our Lord one thousand eight hundred and twenty-nine, before the judges of the supreme court of the Territory of Michigan aforesaid, at the court-house in the city of Detroit, then there came the parties aforesaid, by their respective attorneys aforesaid; and thereupon, the process was further continued between the parties aforesaid, until the term of December, in the year of our Lord one thousand eight hundred and twenty-nine.

Cont'ce. And afterwards, to wit, in the term of December, in the year

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of our Lord one thousand eight hundred and twenty-nine, before the judges of the supreme court of the Territory of Michigan aforesaid, at the court-house in the city of Detroit, then there came the parties aforesaid, by their respective attorneys aforesaid; and thereupon, the process was further continued between the parties aforesaid, until the term of May, in the year of our Lord one thousand eight hundred and thirty.

Cont'ce.

And afterwards, to wit, in the term of May, in the year of our Lord one thousand eight hundred and thirty, before the judges of the supreme court of the Territory of Michigan aforesaid, at the court-house in the city of Detroit, then there came the parties aforesaid, by their respective attorneys aforesaid; and thereupon, the process was further continued between the parties aforesaid, until the term of December, in the year of our Lord one thousand eight hundred and thirty.

And afterwards, to wit, in the term of December, in the year of our Lord one thousand eight hundred and thirty, before the judges of the said supreme court of the Territory of Michigan aforesaid, at the court-house in the city of Detroit, then there came the parties aforesaid, by their respective attorneys aforesaid, and brought into the said court their certain stipulation, which is in the words and figures following, that is to say:

"MICHIGAN TERRITORY, *Supreme Court.*

Stipulation in respect to facts of case.

FRANCIS LABADIE *vs.* GABRIEL RICHARD *et al.* } *Debt on bond for jail limits.*

In the month of September, 1823, the Rev. Gabriel Richard was duly elected delegate to the Congress of the United States for Michigan Territory, for the term of two years; he took his seat as such delegate during the first session of the Congress of 1823 and 1824. On the 21st day of September, 1824, the said Richard was committed to the prison of Wayne county, by Austin E. Wing, then sheriff of said county, upon the execution issued upon a judgment against him in favor of Francis Labadie; on the 12th day of October following, in pursuance of the statutes then in force in relation to prison limits, the said Richard, and the other defendants, executed the bond in question in due form of law, for the privileges of the prison limits of said prison; on the 5th day of November, 182 , the said Richard went out of, and beyond the bounds of said prison limits, as the same are fixed and established by law, on his way to Washington as such delegate. The second session of said Congress to which the said Gabriel Richard was a delegate, commenced on the 4th day of December, 1824, and closed on the third day of March, 1825: the said Richard returned within the said prison limits on the 2d day of April, 1825. Between the said 4th day of December, 1824, and the said 3d day of March, 1825, the said Richard did attend said Congress, as delegate from Michigan Territory: since the said 2d day of April, 1825, the said Richard has remained within the said prison limits, and has not gone out of, or beyond the same. The time between

the said 5th day of November, 1824, and the said 4th day of December, 1824, was no more than a reasonable time for the said Richard to travel from his residence in Detroit to the city of Washington; and the time between the said 3d day of March, 1825, and the said 2d day of April, 1825, was no more than a reasonable time for the said Richard to travel from the city of Washington to his residence in Detroit, within said prison limits. The said Richard returned to said prison limits voluntarily, and before the present suit upon said bond was brought. If the court are of opinion, upon the above case, that said plaintiff is entitled by law to recover on his said bond, judgment to be entered for the plaintiff; otherwise, judgment to be entered for the defendants. It is agreed that this statement of facts shall make a part of the record in said cause, and either party to have the right of appeal or writ of error in said case, in the same manner, and with the same rights, as if the foregoing case were presented in the regular course of pleadings.

LARNED & TORREY, AND WITHERELL,
for Labadie.
E. FARNSWORTH,
attorney for defendants.

DETROIT, 11*th Dec.* 1830."

Cont'ce.

And thereupon, the process was further continued between the parties aforesaid, until the present term of May, in the year of our Lord one thousand eight hundred and thirty-one.

And now, to wit, on the twenty-seventh day of July, in the term of May, in the year of our Lord one thousand eight hundred and thirty-one, in the said supreme court of the Territory of Michigan aforesaid, at the court-house in the city of Detroit, before the judges of said supreme court, then there came, as well the said plaintiff, Francis Labadie, by his attorneys aforesaid, as the said defendants, Gabriel Richard, Louis Beaufait, and Antoine Dequindre, by their attorney aforesaid.

Whereupon, all and singular, the premises being seen, and by the court here fully understood, and mature deliberation being thereupon had, it is considered by the said supreme court of the Territory of Michigan, before the judges thereof now here, that the said plaintiff, Francis Labadie, do recover against the said defendants, Gabriel Richard, Louis Beaufait, and Antoine Dequindre, his said debt of two thousand three hundred and three dollars and twenty-five cents, in said declaration mentioned, together with the costs of this suit; which sums to be discharged by the payment of the following sums in the condition of the bond in said declaration mentioned, to wit, the sum of eleven hundred and sixteen dollars damages, and thirty-five dollars and sixty-two and a half cents costs; and, also, the sum of five hundred and fourteen dollars and fifteen cents, (being for interest on the said sum of eleven hundred and sixteen dollars, from the date of the judgment in said bond mentioned,) assessed by the said court here, by way of damages; together with the further sum of twenty-six dollars and ninety-three and three-fourth cents for the costs and charges of the said Francis Labadie by him about his suit in this behalf

laid out and expended, by the said supreme court, before the judges thereof, now here adjudged to the said Francis Labadie, and with his assent.

July 27, *A. D.* 1831.

TERRITORY OF MICHIGAN, *Supreme Court, to wit:*

I, John Winder, clerk of said court, do hereby certify unto all persons who shall see these presents, that the above and foregoing is a true exemplification of the record of the judgment rendered by said court in the case therein mentioned; that the annexed bill of exceptions is the original bill of exceptions filed in said cause; that the annexed citation is the original citation signed by the judges of said court, and filed in this office, together with the proof of its service; and that a copy of said writ of error was filed in this office for the said Francis Labadie within ten days next after the rendition of said judgment.

In testimony whereof, I have hereunto set my hand, and affixed the seal of said supreme court, at the city of Detroit, this twenty-ninth day of November, in the year of our Lord one thousand eight hundred and thirty-one, and of the independence of the United States of America the fifty-sixth.

JNO. WINDER, *Clerk.* [L. S.]

MICHIGAN TERRITORY, *Supreme Court.*

GABRIEL RICHARD, LOUIS BEAUFAIT, and ANTOINE DEQUINDRE, *uds.* FRANCIS LABADIE. } *Debt on bond for prison limits.*

At the May term of said court, in the year eighteen hundred and thirty-one, held before their honors William Woodbridge, Solomon Sibley, and Henry Chipman, judges.

Be it remembered, that a majority of this court, to wit, the honorable Judges Sibley and Chipman, (his honor Judge Woodbridge dissenting,) having declared and delivered their opinion in this cause, that, upon the case stated and agreed by the parties, the law was with the plaintiff, and he was entitled to recover against the said defendants. The plaintiff by his counsel thereupon, to wit, on this twenty-seventh day of July, in the year of our Lord one thousand eight hundred and thirty-one, moved the court, that, in entering judgment in favor of the said plaintiff against the said defendants, interest should be computed and allowed on the sum specified in the capias ad satisfaciendum mentioned and specified in the condition of the said bond upon which this action is brought, and upon which capias ad satisfaciendum the said Gabriel Richard was arrested and committed; that being also the amount of the judgment against the said Richard, upon which the said capias ad satisfaciendum was issued, from the day of the rendition of the said judgment, and the issuing the said capias ad satisfaciendum,

that is to say, the twenty-first day of September, in the year eighteen hundred and twenty-four, down to the time of rendering judgment in this action, that is to say, the present twenty-seventh day of July, A. D. 1831; which motion and claim of the said plaintiff, for interest on the amount of the said judgment and execution for which the said Richard was committed, was resisted by the said defendants, by their counsel. It was shown to the said court, to their satisfaction, and conceded by the counsel for the plaintiff, that the judgment upon which the said capias ad satisfaciendum mentioned in the said condition of the said bond was issued, and upon which the said Richard was committed, was rendered in an action upon the case in favor of the said plaintiff against the said Richard for certain slanderous and defamatory words alleged to have been spoken by him; but it was nevertheless urged by the said counsel for the said plaintiff, that, although the said judgment upon which the said capias ad satisfaciendum was issued, was rendered as aforesaid upon said cause of action, yet it was not now competent to introduce any evidence whatever of such fact in resistance of the motion and claim of the said plaintiff; and the said defendants, in resisting the said motion and claim of the said plaintiff, did insist that, by the rules and principles of the common law, and by the provisions of the statute under which the said bond was taken and made, the said plaintiff was not entitled to, and ought not to be allowed the interest claimed; but a majority of the judges of the said court (his honor Judge Chipman dissenting) did declare their opinion, and decide, that interest should be allowed the said plaintiff on the said amount of the said judgment, and the said capias ad satisfaciendum mentioned in the said condition of the said bond, from the time of the rendition of the said judgment, and the issuing the said capias ad satisfaciendum, the twenty-first day of September, A. D. 1824, to the time of rendering judgment in this action, that is to say, the present twenty-seventh day of July, A. D. 1831, and did cause interest thereon to be so computed, and did allow the same accordingly, amounting to the sum of five hundred and fourteen dollars and fifteen cents; and the said court did thereupon render judgment in favor of the said plaintiff against the said defendants, for the sum of two thousand three hundred and three dollars and twenty-five cents, the penalty of the said bond, to be discharged upon the payment of the sum of eleven hundred and sixteen dollars damages, and thirty-five dollars and sixty-two and a half cents costs, in said condition mentioned; and, also, the said sum of five hundred and fourteen dollars and fifteen cents, the interest computed and allowed as aforesaid, from the said twenty-first day of September, A. D. 1824, the time of rendering the judgment and issuing the capias ad satisfaciendum aforesaid, and the costs of this suit; to which opinion, decision, and judgment of the said court, the said defendants, by their counsel excepted, and prayed the court that this, their bills of exceptions, might be signed and sealed by the judges thereof, and made a part of the record in this cause; which is done accordingly. July 27, 1831.

WM. WOODBRIDGE.
SOL. SIBLEY.

UNITED STATES OF AMERICA, *ss.*—*To Francis Labadie, of the county of Macomb, in the Territory of Michigan, greeting:*

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington, on the second Monday in January next, pursuant to a writ of error filed in the clerk's office of the supreme court of the Territory of Michigan, at Detroit, in the county of Wayne, wherein Gabriel Richard, Antoine Dequindre, and Louis Beaufait, are plaintiffs in error, and the said Francis Labadie, is defendant in error, to show cause, if any there be, why the judgment rendered against the said Gabriel Richard, Antoine Dequindre, and Louis Beaufait, as in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness, the honorable John Marshall, Chief Justice of the Supreme Court of the United States, the tenth day of January, in the year of our Lord one thousand eight hundred and thirty-one.

Dated at Detroit, in the Territory of Michigan, this 2d day of August, A. D. 1831.

WM. WOODBRIDGE, *Judge.*
SOLO. SIBLEY, *Judge.*

I, John M. Wilson, of Detroit, in the Territory of Michigan, being sworn, say, that on this twenty-second day of November, one thousand eight hundred and thirty-one, I served the foregoing citation upon the said Francis Labadie therein named, by showing and reading the same to him, and giving him a true copy thereof.

J. M. WILSON.

Sworn to, and subscribed before me, this 26th day of November, A. D. 1831.

E. DOTY, *Justice of the Peace.*

Gabriel Richard, Antoine Dequindre, and Louis Beaufait, vs. Francis Labadie.

Filed in clerk's office, 3d August, 1831.

C. W. WHIPPLE, *D. S. Clerk.*

THE UNITED STATES OF AMERICA.—*To the honorable the Judges of the Supreme Court of the Territory of Michigan, greeting:*

Because, in the record and proceedings, and also in the giving of judgment in a plaint which was in the said court before you, in a certain action of debt on a bond between Francis Labadie, plaintiff, and Gabriel Richard, Antoine Dequindre, and Louis Beaufait, survivors, all of said Territory of Michigan, defendants in said action, manifest error hath intervened, to the great damage of the said Gabriel Richard, Antoine Dequindre, and Louis Beaufait, survivors as aforesaid, as by their complaint we are informed: We being willing that the error, if any there be, should in due manner be corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, that, if judgment be therein given, then that you send to our judges of our Supreme